

TOWING SAFETY ADVISORY COMMITTEE

DEPARTMENT OF HOMELAND SECURITY

UNITED STATES COAST GUARD

Minutes of Meeting held
Wednesday, March 19, 2003
Hotel Monteleone
New Orleans, LA

*[These minutes, enclosures, and other TSAC information are available on the Internet
at <http://www.uscg.mil/hq/g-m/advisory/index.htm>]*

ATTENDEES

Coast Guard Staff:

CAPT Michael W. Brown; Chief, Office of Operating and Environmental Standards
(G-MSO); Executive Director
Mr. Gerald P. Miente; (G-MSO-1); Assistant Executive Director
PO Bryan Wick; (G-MSO-1)
CAPT Ronald Branch; Captain of the Port, New Orleans; (attended Tuesday, March 18th)
LT Sean Riley; MSO New Orleans (attended with CAPT Branch)
CDR Laticia Argenti, Deputy Chief, Office of Regulations & Administrative Law
(G-LRA); and Executive Secretary of the Marine Safety Council
LCDR Greg Howard, Office of Waterways Security (G-MPP)
Guy Tetreau; District Eight, (m) Office

Committee Members:

Mr. Jeff Parker; Vessel Operations Manager, Allied Transportation Company; Chairman
Ms. Cathy S. Hammond; President, Inland Marine Service
Mr. Mario A. Muñoz; Risk Analyst; American Commercial Barge Line, LLC
Mr. James G. Daley; Operations Manager (Contracts); Crowley Marine Services
Ms. Jennifer A. Carpenter; Senior Vice President; American Waterways Operators
Mr. James C. DeSimone; Vice President; Great Lakes Towing
Mr. Gerard Maurice; President; Sunset Marine, LLC
Ms. Laurie Frost Wilson; LFW, Attorney-at-Law

Introduction and Welcome

The Coast Guard held a public meeting of the Towing Safety Advisory Committee (TSAC) at the Hotel Monteleone, New Orleans, LA on Wednesday, March 19, 2003 (**Enclosure 1**). This session followed meetings of TSAC's working groups on Towing Vessel Regulatory Review, and Increasing Maritime Security held on the previous day, Tuesday, March 18, 2003 (**Enclosure 2**).

TSAC Chairman, Mr. Jeff Parker called the meeting to order at 0815 welcoming everyone to the City of New Orleans. He praised CAPT Maurice for his hospitality and hard work in making the many arrangements responsible for an enjoyable and successful meeting. Mr. Muñoz then briefed the attendees on emergency safety procedures. All attendees introduced themselves. Mr. Parker thanked the Committee and several attending members of the public for their progress in the previous day's working group meetings that were held in plenary, rather than in individual groups, due to the relatively small number of total attendees. He announced CAPT Brown's retirement from the Coast Guard and introduced the name of CAPT Dave Scott as his successor for Chief, G-MSO and new Executive Director of TSAC as of the summer 2003. He further mentioned the slow movement of the membership slate through the new Department of Homeland Security. Mr. Parker reviewed CAPT Branch's presentation of the previous day on the subject of security in the Port of New Orleans. This is a unique challenge in that area because of the conflux of inland waterway, western rivers and ocean-going traffic. The most distinctive feature of CAPT Branch's presentation was the introduction of the River-Watch initiative that promulgates informational items to the field, such as placards, posters, etc. and includes an 800 phone number for mariners to report suspicious activities within the port. Computer CDs containing the artwork and supporting information are available for interested parties. Mr. Parker closed his comments by outlining the business of the day.

Presentation

CDR Argenti briefed the Committee on two subjects: the Regulatory Process and some specifics relating to Maritime Security. She pointed out that the rulemaking process is governed by the Administrative Procedures Act and that the average rulemaking process takes about 3-1/2 years, especially if it is considered "significant," necessitating review at the Office of Management and Budget (OMB), which, in turn, takes approximately 90 days. The process is necessarily long because of the many offices and public venues that are allowed to introduce comment. Engagement with the public on non-regulatory measures is a shorter, more preferable method of ensuring maritime safety, but in some matters, regulations are essential.

The Coast Guard is required to formulate a work plan that includes a preliminary analysis of the rule, that is later expanded and published in the Advance or Notice of Proposed Rulemaking (ANPRM or NPRM). This analysis includes cost-benefit, effects on small entities, as well as environmental and tribal implications. Available resources also bear on the amount of time needed for preparing a rulemaking. Currently, Maritime Security

and several other mandated projects are listed as priority tasks. The Marine Safety Council reviews the work plan and, if accepted and non-significant, the project is delegated to the directorate that has responsibility for the regulations. If the rulemaking is significant, the MSC makes its recommendations to the Commandant as how to proceed. The project team includes the Project Manager, Regulatory Development Manager, Project Counsel, Technical Writer, Editor, and Analyst. All published material and most relevant documents are placed in the docket opened specifically for a certain rulemaking. Comments from the public are considered and the rule may be adjusted accordingly. If changes are numerous or depart significantly from the Notice, and Interim Rule with opportunity for further comment may be necessary before a Final Rule with an effective date is published.

CDR Argenti informed the Committee of progress made at the International Maritime Organization (IMO) with regard to Maritime Security. She said that in a record one year's time, the IMO published new amendments to the Convention of Safety of Life at Sea (SOLAS) as well as a Maritime Security Code. (International Ship & Port Security Code -- ISPS Code). Simultaneously, Congress passed S. 1214 (the Hollings Bill) that became the Maritime Transportation Security Act (MTSA) on November 25, 2002. Both documents are similar because of our efforts in both arenas during formulation. MTSA mandated that the Coast Guard publish a Temporary Final Rule on Maritime Security as soon as practicable, and we are working to publish on its anniversary this year. This mandate allowed us to waive the APA with regards to NPRM or public comment, but not the analysis requirement of the Executive Orders relating to cost-benefit, effect on the environment, etc. Again, even though the APA was waived, it is extremely important to the Commandant that we engage industry on security matters, especially realizing the costs of these regulations; this is the reason for our holding seven public meetings. The Temporary Final Rule will act as our "Notice of Proposed Rulemaking," as well as a request for further comments toward the Final Rule. She asked TSAC to take the subject of maritime security regulations into consideration and provide the Coast Guard with its continued advice.

CDR Argenti closed with a description of how the general public could advise the Coast Guard on what regulations need be changed or instituted by outlining the Petition for Rulemaking process contained in 33 CFR, part 1. A person needs to write the Executive Secretary of the Marine Safety Council. He or she responds to the petitioner that the request was received, forwards the request to the program manager's office having purview on the subject, and opens a docket for the request. The program manager considers the subject and determines if it should be addressed. If the decision is made that regulations should be changed or added, the process – described above – begins.

Mr. Dean Brugh, Chair of the Gulf Coast Mariners' Association (GCMA) Maritime Security Committee, objected to the Coast Guard's publishing an NPRM or IR, then changing requirements in the Final Rule. Because of the CDR's limited time availability, discussion on this was deferred to the Public Comment period, later in the meeting. Mr. Parker asked how the Coast Guard will be treating the Automatic Identification System (AIS) requirements in the current security rulemakings. She answered that AIS is

specifically mentioned in the MTSA. Our Regulatory Agenda, published before the MTSA, states that we would be publishing an NPRM in light of the IMO requirements. However, the MTSA preempted our initial strategy and are now studying the subject with public comment derived from our seven public meetings. Mr. Parker then asked if AIS carriage requirements would be included in the Temporary Final Rule (TFR). She responded that the decision has not yet been made. Ms. Carpenter asked if the provisions of the MTSA for TFRs extended beyond Ports, Facilities, and Vessels to include AIS. The CDR's answer seems to be affirmative; however, we have our Office of Maritime and International Law studying the situation. Ms. Carpenter then expressed the concerns of AWO that AIS should not be included in the TFR, but should be treated as a separate rulemaking, going through the normal regulatory process. Their analysis is that the security NVICs acted as sort of an "NPRM" for the security rulemaking, given the timelines mandated by the MTSA. However, for AIS, she felt that the public had not yet been given the same chance to evaluate requirements, such as availability of equipment and other concerns.

Mr. Parker commented that certain alternative schemes, such as industry standards, should be accepted as meeting the intent of the Coast Guard's security plans. CDR Argenti stated that we strongly encourage industry to formulate alternatives in order to give flexibility to the program and urged industry to make this a priority over the next few months. Mr. Muñoz asked how the TFR language would affect the NVICs as already published. CDR Argenti responded that NVICs are only guidance that interprets what the regulations require, so the TFR would supercede them. Once the TFR is in place, the NVICs would probably have to be revised. Ms. Wilson stated that the COTPs now issue individual orders relating to their particular port, and asked if the TFR retains that flexibility. The response was that even before the MTSA the CG had authority to enhance port security measures primarily under the Magnuson Act and Ports and Waterways Safety Act; The MTSA didn't change this authority and there is still a place for COTP Orders. The difference is that now we will have a regulatory scheme in place that would provide a "flexible consistency," reflected in the various security plans with input from the security committees. Ms. Wilson cited some regulatory authority under the Oil Pollution Act (OPA-90) produced an inclination to establish Regulated Navigation Areas (RNA) that reflected general regulatory provisions. She maintains that these should have been generated at USCG HQ, rather than at the District levels, incorporating uniformity and consistency around the country. CDR Argenti explained that the RNA is considered a "field regulation," and the authority to designate an RNA lies at the District Commander level, not with the COTP.

Mr. Block announced that the GCMA had made seven Petitions for Rulemaking and has had to wait long periods of time for return correspondence. He asked CDR Argenti how many persons made such petitions each year. She answered that not many such requests are made yearly. He also had asked the Coast Guard for the regulations under which the MSC operated. He announced that he is happy that the regulatory process is working as explained. Mr. Ken Paris, Offshore Marine Services Association (OMSA) commented that third party approvals are important; industry standard plans must be approved; the Gulf of Mexico offshore gas and oil development region should be designated a "port"

for Port Security Committees (PSC), and recommended that the Gulf Safety Committee be designated the PSC for the region. Ms. Wilson then asked the CDR's opinion on a matter that came to her attention: namely, that it is improper for a Federal Advisory Committee, such as TSAC, to submit comments concerning a regulatory issue to the public docket. Her answer that as long as the Committee's meetings are announced in the Federal Register and held openly as public meetings, there is no *need* to make those comments to the public docket. The Coast Guard will still consider Committee comments outside the docket. Ms. Wilson then asked, specifically concerning Committee comments regarding the security regulations, where they should be introduced into the system. The answer is that Committee comments should be submitted to the Committee Executive Director who will then forward them to the appropriate Office.

Executive Director's Remarks

Captain Brown welcomed the Committee, thanking them and members of the public alike for attending. He began with several administrative and mandatory Federal Advisory Committee Act (FACA) announcements. He expressed the regrets of Committee Sponsor RADM Paul Pluta for not being at the meeting as his presence was required in Washington to deal with the many important initiatives and issues facing the Coast Guard at the time. He supplemented CDR Argenti's description of the Petition of Rulemaking process with: 1) Indicate that your letter IS, in fact, a petition for rulemaking, and 2) be specific as you can in telling the Coast Guard WHAT it is you want us to do. This does not necessarily mean that we will undertake the project, but the information is essential so that we can give an accurate response.

Captain Brown commented that the United States' position in the world today requires not only a strong military presence, but all of the elements of American power, including Homeland Security, economic power, and the advice of Advisory Committees as well as the public. Some of the strengths of the American system are its openness, its people, and its consensus orientation. He spoke briefly on the Coast Guard's transition from the Department of Transportation to the new Department of Homeland Security.

Rulemakings, in general, will probably take a little longer than expected. Also, that we were transferred as an entity, which means we are still doing the same things we did under Transportation and the people the public had been dealing with continue to perform the same functions (especially safety and security), and address the same issues.

Captain Brown then presented Ms. Jennifer Carpenter with the Coast Guard Meritorious Public Service Award for her leadership in improving towing vessel safety. Specifically, she was cited for her tireless efforts as Chair of the License Implementation Working Group that made possible the Committee's comments to the Rulemaking on Licensing and Manning of Officers for Towing Vessels, assistance with formulating the implementing NVIC, and the drafting of the Towing Officer's Assessment Record and its Assessment Criteria. Ms. Carpenter then thanked all the members of the Working Group for their hard work in making the deliverables possible.

Further Presentations

LCDR Greg Howard, Port Security Directorate, gave a presentation on the new Notice of Arrival (NOA) requirements (Enclosure 3).

Regulation key milestones: The Interim Rule was published in October 2001, the Final Rule was published on February 28, 2003, and becomes effective on April 1, 2003.

A de-centralized notice used to be given to each COTP; now, notice must be given to the National Traffic Movement Center in Martinsburg, WV. The type of information that need by provided has been expanded to include specifics on Crew, Passengers and Cargo.

Significant public comments included requests for “one stop shopping,” to include, e.g., customs information, in the NOA. Although this is a valid request, the Coast Guard does not currently posses the infrastructure to provide this benefit. The Towing Vessel Industry submitted comments regarding vessels 300 GRT and above especially operating in CONUS. Several comments were received regarding the Certain Dangerous Cargo (CDC) list being too broad. Others regarded that the submission of Electronic Cargo Manifest Lists to U.S. Customs might be burdensome duplication of information; however, the fact is that one submission, meeting the time requirement for submission to Customs, satisfies both Customs and CG requirements. The Bulk Trade questioned the 96-hour window for NOA, due to, at times, their not knowing their cargo’s destination. MODUs/Aleutian Trade Act vessels requested exemption from the regulations; exemption was not granted, but some special provisions were made.

The Final Rule contains several changes from the Interim. The List of Certain Dangerous Cargos was significantly shortened. Barges are exempt if not carrying CDC; also, the towing vessel of any size is exempt if operating in the continental U.S. (CONUS). If a vessel is operating on foreign routes, it must report the last five ports-of-call or only the last port if operating CONUS. The 24-hour point-of contact does not have to be in each port; a central contact for that vessel is sufficient. The Notice of Departure is now consolidated to be included in the NOA. A definition of Location of Vessel at time of NOA is further clarified. The requirements for the name and stowage location for CDCs have been changed to the UN number only and no need to provide location. The Cargo Declaration, Customs Form 1302 or electronic equivalent has been added. Certain information is required for updating an NOA. The implementation of some provisions of the rule are delayed. For further provisions and specific requirements, please consult the rulemaking document.

Future actions/issues include an automated manifest system that would require only one submission. The NOA rule extends only to mile 235 on the Mississippi River, but consideration of some type of action for ports above that point is under consideration and the Coast Guard requests industry input. Recreational vessels and others less than 300 GRT are also to be given further consideration.

Mr. Brugh asked if anyone has a record of any seamen who are suspected terrorists. Neither LCDR Howard nor anyone in the room had an answer. Mr. Parker applauded the Coast Guard for getting the rulemaking right the first time; this included listening to industry, studying their concerns and fixing them in one effort. Mr. Maurice asked if a

towing vessel with a barge carrying a CDC from New Orleans to another COTP zone need file an NOA. The answer was affirmative, unless there were a waiver granted. Mr. DeSimone asked if there is any plan to coordinate the regulatory regime with other modes of transportation. He was concerned that trucks, cars and trains seem to pose just a great a risk as marine vessels and that our industry might be overburdened with regulations that the others would not be. LCDR Howard had no knowledge of the subject, but pointed out that the sheer amount of cargo carried by water lends itself to these regulations. CAPT Brown announced that the Patriot Act does impose a series of requirements on all modes, and that the CG is working with others in the Department of Transportation on either joint or coordinated rulemakings. Mr. Whitehurst of the GCMA commented on permits on oversize tows that contain CDCs.

Ms. Cynthia Sylvain-Lear, with the office of the Mayor presented information relating to the Port of New Orleans. An initiative was begun to increase international trade, high-paying jobs, and the port's exposure to the world. The city has always been one with an active port that has brought benefits of a cultural and economical nature. The new industrial canal lock project is one of the largest in progress at this time. Other projects are better connecting the port area with rail facilities. The Mayor's office is also trying to attract more cruise line business, as well as increasing the city's relations with the other parts of the state. Taxes realized from current and desired increase in businesses and jobs are needed to help the city grow its port infrastructure. Port security, of course, is of top priority because of the importance of the port to New Orleans, development of the port area, and the rest of the region.

Ms. Burdine of the Army Corps of Engineers presented information on the new industrial canal lock replacement project. The present canal lock was put into service in 1921. Its dimensions are 75' wide by 640' long by 31.5' deep. The average delay is 11 hours, but could be as long as 24-36 hours. By contrast, the new lock will be 110' wide by 1200' long by 36' deep with an overall cost of 655 million dollars. Construction is in sections built in a graving dock and floated into position, thus minimizing disruption to navigation. When construction is finished the Claiborne Avenue bridge over the canal will also be replaced with a two-week closure to traffic. Depending on funding, completion is expected in the year 2014. The cost is being shared by utility owners, the Inland Waterway Trust Fund, the Army Corps, and the Port of New Orleans. Playgrounds and police protection are a part of the project.

Mr. Brugh objected to the closing of the Gulf outlet but praised the Corps' model for the lock and its website. Mr. Parker asked what waterway expansion is planned. Ms. Burdine answered that many entities are involved, but the Corps is responsible only for the lock replacement for deep-draft access.

Existing Business

Mr. Parker called for a motion, made and seconded, to accept the minutes of TSAC's fall 2003 meeting. There was no discussion, and the minutes were unanimously accepted.

Mr. DeSimone presented information on the Increasing Port Security Working Group (WG). He reported that the WG has discussed the many initiatives on the subject, giving its full endorsement to the model security plan that the American Waterways Association (AWO) had developed. TSAC, at its last meeting, also passed a resolution [*enclosure 4, fall 2002*] in response to a CG Navigation and Vessel Inspection Circular (NVIC) regarding guidelines for performing security assessments and developing security plans. The NVIC was published and he attended a February 7, 2002 workshop of industry representatives. A unanimous agreement was reached that one size does not fit all, alternate plans (i.e., the AWO model) should be adopted and provided for, and there was much concern about vessel and company security officers. That group drafted a letter of comment to the docket. At the WG meeting the previous day, they agreed to draft a statement that responds to the Task and what progress has been made. Also, it was agreed that TSAC should make a recommendation to include the resolution and other comments regarding maritime security to the docket. However, in view of the new information contained in CDR Argenti's presentation today, comments from the Committee may be presented to the Coast Guard.

Ms. Wilson suggested that these comments and recommendations be submitted through CAPT Brown. Mr. Parker stated that the group should consider the distribution and enforcement of the AWO Model to non-AWO members, as well as discuss the International Ship and Port Facility (ISPS) Code, adopted through the International Convention on Safety of Life at Sea (SOLAS), and what provisions should not apply to the towing industry. CAPT Brown expounded on the definitions of the terms "Plan," "Standard," and "System." He proposed that the Committee might be meaning to discuss and propose, not an alternate "plan," but an alternative "system." Normally, an assessment is performed, a plan is prepared, and then approved and vetted. He sees that what the Committee should consider is the recommendation to adopt alternative "processes" (e.g., AWO, ISO, etc.). Based on the certification of a company's compliance with that process, the Coast Guard would consider it an accepted alternative. Ms. Carpenter suggested that TSAC include in any recommendation to the Coast Guard that the Automatic Identification System (AIS) not be part of the temporary rule on vessel and facility security plans. Mr. Parker agreed and commented that the AIS, which started as a safety of navigation issue, ultimately has become a security-based enhancement that needs to be implemented in a cost-effective, common-sense manner.

Mr. Muñoz reported on the Towing Vessel Regulatory Review Working Group. He gave a brief background of the Task that was first presented to TSAC at the spring, 2002 meeting. During the meetings that followed the WG identified 36 potential gaps that did or did not exist within the regulation that needed to be researched, and because of the canceled meeting in February, they are still within the research phase of the task. Both regulatory and non-regulatory resources were identified. These include inspected vessel regulations as well as American Bureau of Shipping (ABS) rules or insurance underwriters' directions. Current plans include several meetings and an interim report at the fall 2003 TSAC meeting, and perhaps the final report in the spring 2004. Keeping in mind an initiative in the works by others to seek a Legislative Change Proposal (LCP) to bring towing vessels under inspected status, the WG will continue to search for non-

regulatory approaches to the identified gaps, such as the AWO Responsible Carrier Program (RCP) or the CG Cooperative Towing Vessel Examination Program.

Mr. Parker suggested that both these Working Groups meet consecutively to reduce travel by parties interested in both subjects. CAPT Brown offered Mr. Muñoz any casualty data the Coast Guard might have to assist the WG in its efforts. Mr. Muñoz pointed out that once the WG decides what to do with an identified gap, such data may prove valuable and will request same at that time. Mr. Parker asked for technical expertise for information on the Marine Safety Manual, vessel inspections, and hull integrity. CAPT Brown offered assistance in identifying the proper personnel at the desired time.

Ms. Hammond reported on the research/study team's activities on a draft task statement presented at the fall 2002 meeting regarding the Adequacy of Navigation Lights (or Visibility of Tows) that resulted from the Louisville, KY Port and Waterway Safety Assessment (PAWSA). She suggested that the Committee study the PAWSA and any National Boating Safety Advisory Council data to determine the scope of the problem and reconsider the adequacy of navigation lights currently required on inland river barge tows and the navigation lights on recreational boats. They will also consider the benefits and disadvantages of requiring supplemental marker lights at each barge couplings along the outboard side of the tow or any other suitable location. Also, improved lighting for recreational boats, as well as other measures that would reduce conflict between vessels. They will consider the need for additional CG authority to mandate recreational boaters' education and licensing through formalized courses in navigation, rules of the road, proper radio communications, and familiarity with navigational aids provided on recreational boats. The team suggests that TSAC work with the National Boating Safety Advisory Council (NBSAC) to discuss the scope of the task and suitable solutions, and that they hold joint meetings to work on the above issues. The team hopes to submit an interim report at fall 2003 meeting and a final report at the spring 2004. Mr. Parker suggested that the group include a component of education for the commercial towing vessel officers. Ms. Wilson asked if the draft task statement should be modified in view of these study group results. Mr. Parker believes that the statement already embodies most of the points that need consideration. CAPT Brown expressed the view that the statement, as is, is adequate, and what the group has suggested goes beyond its scope, which is acceptable. Once the group's work is completed, the full Committee would vote on a complete recommendation of actions. Ms. Carpenter suggested the Task Statement be revised to accurately describe the scope; i.e., one segment of the population would wish to participate if it were the "Barge Lighting Working Group; more diverse interest would be generated if it were named the "Commercial/Recreational Boating Interface Working Group." Mr. Parker pointed out that the statement is merely a draft, and that Mr. Miente would re-write the draft.

Ms. Carpenter made a motion that the Committee accept Task Statement 02-02 with the changes outlined by Ms. Hammond and Mr. Maurice. Ms. Wilson suggested that the completion dates be also amended. Ms. Carpenter agreed and further motioned that under part IV "establish a Working Group entitled "Commercial/Recreational Boating Interface" to perform the revised taskings. CAPT Brown reminded the Committee that if

a recommendation to change the navigation light required on towing vessels and tows, then the Navigation Safety Advisory Committee (NAVSAC) would have to be involved. The motion was seconded and passed. The Working Group Co-chairs are Ms. Hammond and Mr. Maurice.

Ms. Carpenter reported for Mr. Rex Woodward on the activities of the Crew Alertness Working Group. The Working Group recommends TSAC endorse Crew Endurance Management System (CEMS) as the right approach to ensure crew endurance throughout the towing industry, and a vigorous Coast Guard effort to ensure widespread industry implementation. Since the last TSAC meeting, under the auspices of the AWO, a combined Coast Guard/AWO CEMS Implementation Working Group tasked with developing a plan for companies throughout the industry to adopt the CEMS program. Three TSAC members are on the Working Group: Mr. Daley, Mr. Woodward, and Ms. Carpenter; other members include AWO industry personnel, and representatives from Coast Guard Headquarters, Field Units, and the Research & Development Center. The group has four goals: 1) Promote widespread industry understanding and knowledge; 2) Provide feedback to CG on the CEMS implementation tools developed by the R&D Center; 3) Recommend measurement tools to aid the R&D Center in assessing CEMS implementation; 4) Recommend how CEMS might fit into the RCP. Since the program was developed by a great deal of input from the inland industry, perception is that it is primarily for this arena. The working group will dispel this notion, and develop models whereby other towing segments might benefit. The program also requires input and support from all members of the industry from senior management to the deck plate level. Mr. Daley gave a schedule of implementation on several industry boats.

New Business

Mr. Mianta handed out copies of a last minute submission to the Committee from CDR Rand of the Port Security Directorate who asks their input on draft regulatory language concerning fleeting facility security. CAPT Brown explained that the CG is looking for general comment and advice. Mr. Daley asked if this is an overall security plan for all fleeting areas, to which CAPT Brown replied that the language represents regulatory wording rather than a security plan per se. Ms. Carpenter suggested that study and consideration of the language be made part of Security Working Group. CAPT Brown requested preliminary comments by the end of April.

Mr. Parker and Mr. Muñoz presented a proposed Task Statement regarding Travel Time (Deadhead Time) (***Enclosure 4***) that came about from a Petition for Rulemaking from Mr. Block and the GCMA. Mr. Muñoz characterized this as a fatigue related issue, suggested additional wording and changes to the draft, and recommended that the Working Group would perform a survey to collect and then study various companies' travel policies. He requested that the Working Group be given time to examine the issues, rewrite the statement, and present a final tasking to TSAC at the next meeting. Ms. Wilson suggested that the Coast Guard might provide any relevant data that would support the task.

Public Comment

Mr. Block spoke concerning the GCMA as the voice of the lower-level mariner and his background with the marine industry. He notified the Committee that the association has prepared and published about 75 informational papers and reports to keep the mariner abreast of issues concerning them and industry. Closure has come to many of these issues, but not to others. The GCMA believes that time has come to take their concerns to Congress and ask that statutory authority be given to the Coast Guard to write regulations on a number of Association issues. These include safe drinking water, hearing loss, carriage of log books, towing vessel inspection, setting of safe manning standards and others as outlined in GCMA Report R-350. Additional GCMA concerns deal with alleged work-hour abuse, work-hour limitations, and definitions of off-duty and "deadhead time," drug abuse, improvement of offshore supply vessel regulations, and whistle-blower protection (partially addressed by Section 428 of the Maritime Transportation Security Act (MTSA)). GCMA wishes to work with the AWO on non-regulatory approaches like their RCP, but have philosophical differences on other programs such as Crew Endurance Management System. Other GCMA reports, including R-276 about regulatory standards; R-346 concerning work hours; and R-292, R-309, & R-333 regarding crew injuries, are available from the Association.

Mr. Dean Brugh spoke about the importance of the Paris Road Bridge, a vital evacuation route for the area. Several of the particulars included pier fenders, lift-boat clearance and the depth of water near the piers. He cited a 1994 engineering firm study that recommended determining the present soil profile, and if significant erosion had occurred, return the profile to its original level.

Mr. David Whitehurst thanked the Committee for taking up the task of travel time. He maintains that further attention is required regarding working hours, especially enforcement of current work-hour rules.

Ms. Carpenter gave a summary of the Committee's Action Items (**Enclosure 5**).

The next meeting is scheduled for September 9 and 10 at USCG Headquarters.

(signed)

Captain Michael W. Brown
Executive Director

(signed)

Mr. Jeff Parker
Chairman

Date

Date

- Encl: (1) Agenda, 3/19/03, Public Meeting
(2) Agenda, 3/18/03, Working Group Meetings
(3) Notice of Arrival Presentation Slides
(4) Draft Task Statement on Deadhead Time
(5) Action Items, 3/19/03

TSAC- Public Meeting Agenda – Wednesday, March 19, 2003

0800	<u>Introduction & Welcome</u> • Chair's Remarks	Mr. Parker
0815	<u>Presentation: Maritime Security & Federal Advisory Committees</u>	CDR Argenti (Deputy Chief, Office of Regulations & Administrative Law, CG HQ)
0845	<u>Executive Director's Remarks</u>	CAPT Brown
	<u>Resume Presentations</u>	
0900	• <u>Notice of Arrival</u>	LCDR Howard (Office of Waterways Security P, R, & I) USCG HQ
0930	• <u>Construction of the New Industrial Canal Lock</u>	Ms. Burdine (US Army Corps Of Engineers)
1000	<u>Break</u>	
1030	• <u>Increase in New Orleans Port Activity</u>	Ms. Butler (Office of the Mayor of New Orleans)
1100	<u>Existing Business/Reports</u> 1. Acceptance of Minutes 2. Increasing Maritime Security 3. Towing Vessel Regulatory Review 4. Navigation Lights 5. CEMS (Crew Endurance Management System) Update	Mr. Parker Mr. DeSimone Mr. Muñoz Ms. Hammond/Mr. Maurice Mr. Woodward
1145	<u>New Business</u> • Review of Proposed Task Statement 03-01	Mr. Parker
1200	<u>Public Comment</u>	All
1230	<u>Summary of TSAC Action Items</u>	Ms. Carpenter
	<u>Schedule Next Meeting Date</u> • (Sept. 9-10, 2003 @ USCG HQ)	Mr. Parker
	<u>Adjourn</u>	

Enclosure (1)

TSAC - Working Group Meeting Agenda - Tuesday, March 18, 2003

0730	<u>Arrival</u>	
0800	<u>Introduction & Welcome</u> <ul style="list-style-type: none">• Review of Meeting Schedule and Objectives• Discussion of Working Groups' Taskings and Status	Mr. Parker
0830	<u>Presentation: Maritime Security</u>	CAPT Branch (N.O. COTP)
0900	<u>Working Group Meetings</u> <ul style="list-style-type: none">• Improving Maritime Security• Towing Vessel Regulatory Review• Navigation Lights	Mr. DeSimone Mr. Muñoz Ms. Hammond/Mr. Maurice
1200/1230	<u>Working Group Preliminary Reports</u>	WG Chairs
1230/1300	<u>Adjourn</u>	

Links to the G-M Business and Capability Strategies for FY2002-2006 and FY2003-2007, and the FY 2001 Performance Report are now available on the following G-MRP web site:

<http://cgweb.comdt.uscg.mil/g-mr/mr-p/mrp-1g-mplan.htm>

Enclosure (2)

DRAFT

TOWING SAFETY ADVISORY COMMITTEE (TSAC) **TASK STATEMENT**

Task # 03-01

I. **TASK TITLE**

Petition for rulemaking regarding the issue of travel or “deadhead” time.

II. **BACKGROUND**

G-MOC Policy Letter 4-00, “Watchkeeping and Work-hour Limitations on Towing Vessels, Offshore Supply Vessels (OSV) & Crew Boats Utilizing a Two Watch System,” was presented at the TSAC meeting in Memphis in September 2000. At this meeting, the public was encouraged to submit comments. As a result, the Coast Guard received a Petition for Rulemaking in accordance with Title 33, Code of Federal Regulations (33 CFR) 1.05-20. The petition asks the Coast Guard to adopt into its regulations language similar to that of the Federal Railroad Administration’s regulation at 49 CFR 228.7(a)(4) that considers “on-duty” time to include “time spent in deadhead transportation en route to a duty assignment.”

III. **PROBLEM STATEMENT**

The petition was generated as a result of a study by the National Transportation Safety Board (NTSB) titled “Evaluation of U.S. Department of Transportation Efforts in the 1990s to Address Operator Fatigue,” NTSB/SR-99/01.

The petitioner believes the above-mentioned G-MOC policy letter deals, in part, with this matter and is concerned with the definition of “travel” time: as it appears in paragraph 2.d. of that letter. He is further concerned that the phrase “neutral time”, as it is used in that paragraph, is not defined in the letter, and believes that could lead a mariner and an employer to a possible misunderstanding: i.e., making an evaluation whether the mariner is expected to go on watch immediately upon arriving at the vessel, or to wait until he/she has received the required rest. This situation could result in a fatigue-related accident if a mariner was required to work without an adequate period of rest.

IV. **TASK**

1. Direct the Regulatory Review Working Group to perform the following tasks:
 - a) Review NTSB/SR-99/01;
 - b) Review the regulation cite at 49 CFR 228.7(a)(4);
 - c) Consider the benefits and disadvantages of incorporating similar language into 46 CFR, part 15, or other suitable location;
 - d) Consider related information the Working Group feels appropriate; and
 - e) Submit a report to the Coast Guard outlining findings and recommendations.

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V. ESTIMATED TIME TO COMPLETE TASK

The Working Group should provide an interim report at the fall 2003 TSAC meeting and a final report due at the spring 2004 meeting, unless it believes that it can deliver a direct final report at the fall 2003 meeting.

VI. COAST GUARD TECHNICAL REPRESENTATIVES

LCDR Gerard Achenbach; G-MOC-1; Phone: (202)267-2735; fax: (202)267-4394 gachenbach@comdt.uscg.mil

VII. TSAC CONTACT

TBD

DRAFT

(Enclosure (3) Not Available)

Enclosure (4)

3/19/03 TSAC Action Items

- TSAC agreed to provide written feedback to the Coast Guard by the end of April on the agency's request for comment on vessel and facility security plans. The committee unanimously agreed that the following key points should be included in that feedback: 1) the importance of accepting industry-developed standard plans as alternatives to the vessel security plan rules; 2) the fact that "one size does not fit all" in the development of security plans; 3) the need for some means of verification that a company security plan is in place; and 4) the fact that AIS requirements should be addressed in a stand-alone rulemaking, and not as part of the vessel security plan regulations. TSAC also agreed to address in its written feedback the draft language on fleeting facilities circulated for comment by the Coast Guard. **(J. DeSimone, lead)**
- The Regulatory Review Working Group agreed to meet at least once prior to the Fall 2003 TSAC meeting and to provide an interim report to the committee at that meeting. Jerry Miente will serve as the new Coast Guard liaison to the working group, with assistance from G-MOC as needed. **(M. Munoz, lead)**
- TSAC voted unanimously to accept Task Statement #02-02, subject to changes in the project scope, title, and timing proposed by Cathy Hammond and Gerard Maurice. The new Working Group on Commercial/Recreational Boater Interface will meet at least once before the Fall 2003 TSAC meeting. **(C. Hammond and G. Maurice, lead)**
- TSAC agreed that the Regulatory Review Working Group would revise proposed Task Statement #03-01 (Petition for Rulemaking Regarding the Issue of Travel or "Deadhead" Time) to reflect a broader focus. The working group will present the revised task statement for TSAC consideration at the Fall 2003 committee meeting. **(M. Munoz, lead)**
- The next TSAC meeting is tentatively scheduled for September 9-10 at Coast Guard headquarters in Washington, D.C. **(J. Parker, lead)**

Enclosure (5)